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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/576,986	12/27/2006	Apostolos Katefidis	OST-061078	9024
22876	7590	01/27/2010	EXAMINER	
FACTOR & LAKE, LTD 1327 W. WASHINGTON BLVD. SUITE 5G/H CHICAGO, IL 60607			LU, JIPING	
			ART UNIT	PAPER NUMBER
			3743	
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			01/27/2010	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Office Action Summary****Application No.**

10/576,986

**Applicant(s)**

KATEFIDIS ET AL.

**Examiner**

Jiping Lu

**Art Unit**

3743

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 30 November 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SI/22)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date \_\_\_\_\_

**DETAILED ACTION**

***Claim Rejections - 35 USC § 103***

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
2. Claims 1-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ishimaru (EP 0568822 A2) in view of Huh (KR 2003075939A) and Keefer et al (U.S. Pub. 2002/0112479) and Frank et al (U.S. Pat. 6,541,141).

Ishimaru shows a system and a method for drying objects comprising a drying cubicle 6, a heating device 10 which heats the hot air 26a introduced into the drying cubicle 6, wherein the heating device includes at least high temperature fuel cell 10 the process waste air 19 from which can be fed to the drying cubicle 6 as hot air. There is a control system 47 to operate the fuel cell 10 and supplying electrical energy to other consumers (see Fig. 2). However, Ishimaura does not expressly teach the concept of feeding process waste air of the fuel cell directly to a drying cubicle in which the objects are exposed to hot air and a control system which operates the fuel cell regardless of the electrical energy generated thereby that the thermal energy generated thereby meets the requirement in the drying cubicle. Ishimaura also does not disclose a high temperature fuel cell with hot air having a temperature of at least 600°C and a supply line for introducing air from the atmosphere into the drying chamber. Huh et al. shows a system for drying objects comprising a drying cubicle 20 including at least one section in which the objects are exposed to hot air; a heating device 10 which heats the hot air introduced into the drying cubicle 20, wherein the heating device includes at least one high temperature fuel cell the process

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waste air 30 from which can be fed to the drying cubicle 20 as hot air; there is provided a control system 40 which so operates the high temperature fuel cell regardless of the electrical energy generated thereby that thermal energy generated thereby meets the requirement in the drying cubicle 20. Keefer et al. teach a high temperature fuel cell operating at very high temperatures in the range of about  $600^{\circ}\text{C}$  to about  $1000^{\circ}\text{C}$  which meets the claimed limitation of at least  $600^{\circ}\text{C}$ . Frank patent teaches a well known air supply line drawing air 25 from the atmosphere into the drying chamber 24 same as the applicant's. Therefore, it would have been obvious to one skill in the art at the time the invention was made to modify the system of Ishimaru to direct or feed process waste air of the fuel cell directly to a drying cubicle and to control the supplying of the thermal energy regardless of the electrical energy generated as taught by the Huh patent in order to recover waste heat and to more effectively reduce the loss of energy. It would also have been obvious to one skill in the art at the time the invention was made to further modify the system of Ishimaru to substitute the high temperature fuel cell of Keefer et al. for the fuel cell of Ishimaru in order to supply high temperature waste air to the drying cubicle and to provide dryer of Ishimura with an air supply lined as taught by Frank et al. in order to supply air from the atmosphere into the drying chamber. As for the limitations in claims 2-4, they are viewed as functional or intended use limitations. As MPEP 2114 states, "[a] claim containing a 'recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus' if the prior art apparatus teaches all the structural limitations of the claim". In this case, the limitations above do not add any structural limitations to the claim and the system of Ishimaru as modified by Huh et al. discloses all the structural limitations.

3. Claims 7-10, 13-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ishimaru (EP 0568822 A2) in view of Huh (KR 2003075939A) and Keefer et al U.S. Pub. 2002/0112479 .

Ishimaru shows a method for drying objects comprising a drying cubicle 6, a heating device 10 which heats the hot air 26a introduced into the drying cubicle 6, wherein the heating device includes at least high temperature fuel cell 10 the process waste air 19 from which can be fed to the drying cubicle 6 as hot air. There is a control system 47 to operate the fuel cell 10 and supplying electrical energy to other consumers (see Fig. 2). However, Ishimaru does not expressly teach the concept of feeding process waste air of the fuel cell directly to a drying cubicle at a temperature of at least at 600<sup>0</sup>C in which the objects are exposed to hot air and a control system which operates the fuel cell regardless of the electrical energy generated thereby that the thermal energy generated thereby meets the requirement in the drying cubicle. Huh et al. shows a system for drying objects comprising a drying cubicle 20 including at least one section in which the objects are exposed to hot air; a heating device 10 which heats the hot air introduced into the drying cubicle 20, wherein the heating device includes at least one high temperature fuel cell the process waste air 30 from which can be fed to the drying cubicle 20 as hot air; there is provided a control system 40 which so operates the high temperature fuel cell regardless of the electrical energy generated thereby that thermal energy generated thereby meets the requirement in the drying cubicle 20. Keefer et al. teach a high temperature fuel cell operating at very high temperatures in the range of about 600<sup>0</sup>C to about 1000<sup>0</sup>C which meets the claimed limitation of at least 600<sup>0</sup>C. Therefore, it would have been obvious to one skill in the art at the time the invention was made to modify the method of Ishimaru to control the supplying of the thermal

energy regardless of the electrical energy generated and to direct or feed process waste air of the fuel cell directly to a drying cubicle at a temperature of at least at 600<sup>0</sup>C as taught by the Huh and Keefer et al patents in order to recover waste heat and to more effectively reduce the loss of energy.

4. Claims 5, 6 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ishimaru (EP 0568822 A2) in view of Huh (KR 2003075939A) and Keefer et al (U.S. Pub. 2002/0112479) and Frank et al (U.S. Pat. 6,541,141) as applied to claim 1 as above and further in view of Thompson (U.S. Pat. 5,983,521).

The system of Ishimaru as modified by Huh et al. and Keefer et al. and Frank et al. as above includes all that is recited in claims 5 and 6 except for a post combustion device for purify the hydrocarbon and waste heat recovery system. Thompson shows a post combustion device 12 for purifying the hydrocarbon and waste heat recovery system 44, 46 same as claimed. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the system and method of Ishimaru to include a post-combustion device or afterburner and waste heat recovery as taught by Thompson in order to improve exhaust air quality.

5. Claims 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ishimaru (EP 0568822 A2) in view of Huh (KR 2003075939A) and Keefer et al (U.S. Pub. 2002/0112479) as applied to claim 7 as above, and further in view of Thompson (U.S. Pat. 5,983,521).

The method of Ishimaru as modified by Huh et al. and Keefer et al. as above includes all that is recited in claims 11 and 12 except for a post combustion device for purify the

hydrocarbon and waste heat recovery system. Thompson shows a post combustion device 12 for purifying the hydrocarbon and waste heat recovery system 44, 46 same as claimed. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the method of Ishimaru to include a post-combustion device or afterburner and waste heat recovery as taught by Thompson in order to improve exhaust air quality.

6. Claims 15-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ishimaru (EP 0568822 A2) in view of Huh (KR 2003075939A) and Keefer et al (U.S. Pub. 2002/0112479) as applied to claim 7 as above, and further in view of Poltorak (U. S. pat. 7,158,116).

The method of Ishimaru as modified by Huh et al. and Keefer et al. as above includes all that is recited in claims 15-18 except for the control system utilizing the electrical energy of the fuel cell. Poltorak teaches a control system utilizing the electrical energy of the fuel cell same as claimed (see claim 13). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the method of Ishimaru to use electrical energy of the fuel cell to power the control system as taught by Poltorak in order to pursue an intended use.

### ***Double Patenting***

7. A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

8. Applicant is advised that should claim 6 be found allowable, claim 19 will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

#### ***Response to Arguments***

9. Applicant's arguments with respect to claims filed on 11/30/09 have been considered but are not persuasive to overcome the rejection. First, claims fail to define over the prior art references. The applicant is requested to point out from the claims if any limitation that the prior art references fail to teach or suggest. Second, the applicant argues that Ishimaru patent teaches a system which provides both electricity and heat depending on the immediate needs of the energy consumer. The combination of the Ishimaru and Huh patents is improper. The applicant also argues that the combination of Ishimaru, Huh, Keefer et al and Frank et al is not proper because such combination fails to teach the claimed supply line for introducing air into the drying chamber. The examiner disagrees. Ishimaru shows a system and a method for drying objects comprising a drying cubicle 6, a heating device 10 which heats the hot air 26a introduced into the drying cubicle 6, wherein the heating device includes at least high temperature fuel cell 10 the process waste air 19 from which can be fed to the drying cubicle 6 as hot air. There is a control system 47 to operate the fuel cell 10 and supplying electrical energy to other consumers (see Fig.



2). Huh et al. patent shows a system for drying objects comprising a drying cubicle 20 including at least one section in which the objects are exposed to hot air; a heating device 10 which heats the hot air introduced into the drying cubicle 20, wherein the heating device includes at least one high temperature fuel cell the process waste air 30 from which can be fed to the drying cubicle 20 as hot air; there is provided a control system 40 which so operates the high temperature fuel cell regardless of the electrical energy generated thereby that thermal energy generated thereby meets the requirement in the drying cubicle 20. Keefer et al. teach a high temperature fuel cell operating at very high temperatures in the range of about 600<sup>0</sup>C to about 1000<sup>0</sup>C which meets the claimed limitation of at least 600<sup>0</sup>C. Frank patent teaches a well known an air supply line drawing air 25 from the atmosphere into the drying chamber 24 same as the applicant's. Therefore, it is the examiner's position that it would have been obvious to one skilled in the art to modify the system of Ishimaru to direct or feed process waste air of the fuel cell directly to a drying cubicle and to control the supplying of the thermal energy regardless of the electrical energy generated as taught by the Huh patent in order to recover waste heat and to more effectively reduce the loss of energy. It would also have been obvious to one skilled in the art to further modify the system of Ishimaru to substitute the high temperature fuel cell of Keefer et al. for the fuel cell of Ishimaru in order to supply high temperature waste air to the drying cubicle and to provide dryer of Ishimura with an air supply lined as taught by Frank et al. in order to supply air from the atmosphere into the drying chamber. Finally, in view of this combined teaching of the prior art references, one skilled in the art would have found it to be obvious to combine because to direct or feed process waste air of the fuel cell directly to a drying cubicle and to control the supplying of the thermal energy regardless of the electrical energy generated

would have been predictable (see KSR International Co. v. Teleflex, Inc. 82 USPQ 2d 1385 (2007)).

***Conclusion***

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jiping Lu whose telephone number is 571 272 4878. The examiner can normally be reached on Monday-Friday, 9:00 AM - 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, KENNETH RINEHART can be reached on 571-272-4881. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jiping Lu/  
Primary Examiner  
Art Unit 3743

J. L.